

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TYSON MARSHEK,

Petitioner,

v.

C. EICHENLAUB,

Respondent,

Civil No. 5:06-CV-15684

HONORABLE JOHN CORBETT O'MEARA
UNITED STATES DISTRICT JUDGE

**OPINION AND ORDER DENYING THE MOTION FOR
RECONSIDERATION AND/OR TO ALTER OR AMEND JUDGMENT**

On January 10, 2007, this Court denied petitioner's application for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. *See Marshek v. Eichenlaub*, No. 2007 WL 118924 (E.D. Mich. January 10, 2007). Before the Court is petitioner's motion for reconsideration and/or to alter or amend judgment. For the reasons stated below, the motion for reconsideration and/or to alter or amend judgment is DENIED.

A motion to alter or amend judgment brought by a habeas petitioner pursuant to Rule 59 (e) may properly be analyzed as a motion for reconsideration pursuant to Local Rule 7.1 of the Eastern District of Michigan. *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999). U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632

(E.D. Mich. 2001); *See also Williams v. McGinnis*, 192 F. Supp. 2d 757, 759 (E.D. Mich. 2002). A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and that a different disposition of the case must result from a correction thereof. *Williams*, 192 F. Supp. 2d at 759; *MCI Telecommunications Corp. v. Michigan Bell Telephone Co.*, 79 F. Supp. 2d 768, 797 (E.D. Mich. 1999). A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

Petitioner's motion to alter or amend judgment will be denied, because petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied petitioner's habeas application. *Hence*, 49 F. Supp. 2d at 553.

ORDER

Based upon the foregoing, IT IS ORDERED that the motion for reconsideration and/or to alter or amend judgment [Dkt. Entry # 6] is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Dated: April 10, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 10, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager